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San Carlos Apache Telecommunications Utility, Inc.

VIA ECFS

September, 24, 2012

Ms. Marlene Dortch, Secretary
Office of the Secretary
Federal Communications Commission
445 12th Street S.W.
Washington, D.C. 20544

Re: Tribal Government Engagement Obligation, Docket Nos. 10-90, 07-135, 05-337, 03-109, CC Docket Nos. 01-92, 96-45, WT Docket No. 10-208, GN Docket No. 09-51

Dear Ms. Dortch:

I am the General Manager of San Carlos Apache Telecommunications Utility, Inc. ("SCATUI"). I am writing to offer some preliminary comments on the "Tribal Government Engagement Obligation" (the "Obligation") discussed in the Office of Native Affairs and Policy's ("ONAP") Guidance Memorandum Public Notice dated July 19, 2012 and in the Petition for Reconsideration and Clarification of the United States Telecom Association dated August 20, 2012. As you know, the Obligation was adopted as part of the USF/ICC Transformation Order.

At the outset, I recognize that the July 19th Guidance Memorandum was ONAP's first statement on the subject and, as the Memo states:

We recognize that priorities and plans of individual Tribal governments and individual service providers can vary greatly, as do the existing relationships between Tribal governments and carriers currently serving Tribal lands [and] as a result, the guidance provided herein is somewhat general in nature at this stage, but we anticipate that our guidance, as well as the development of best practices, will evolve over time based on initial implementation experiences and the feedback of both Tribal governments and communications providers.

The purpose of this letter is to begin offering you the feedback you have requested, so that your development of best practices in this area will be effective and efficient.

The idea of requiring formal engagement between tribal governments and communications companies providing service on tribal lands with USF support, and further requiring annual reporting of that engagement, generally makes good sense. However, there is at least one situation – of which SCATUI is an example – where that requirement is not necessary and the July 19th Guidance Memorandum seems to recognize that indirectly. While discussing the need for carriers to market services in a culturally sensitive way on reservations, the Memo states:

Outside the context of Tribally owned and operated providers, however, seldom have these cultural factors been fully considered in the marketing and deployment of communications services on Tribal lands.

(emphasis added). And it is in just this context – that of tribally owned and operated telecommunication providers – that these comments are offered.

SCATUI is such a provider. SCATUI was created by Resolution of the San Carlos Apache Tribe, a federally recognized tribal government. By that Resolution, SCATUI was formed as a tribal corporation under San Carlos Apache tribal law and Articles of Incorporation were thereby approved. Under those Articles, SCATUI is 100% wholly-owned and operated by the San Carlos Apache Tribe. SCATUI's Board of Directors is appointed by and serves at the pleasure of the San Carlos Tribal Council, the governing body of the Tribe, and all revenues generated by SCATUI go back to its sole shareholder: the San Carlos Apache Tribe. Thus, SCATUI is one of about a dozen tribally owned and operated communications providers currently operating in the United States.

Given the relationship between SCATUI and the San Carlos Tribe, an FCC-mandated Engagement Obligation between the company and the Tribe is both unnecessary and unwise. It is unnecessary because communications between the two parties are frequent and on-going with respect to all of the elements of the Obligation, as well as many others. Neither the Tribe nor SCATUI need the FCC to direct them to discuss matters of mutual concern once a year: those matters are discussed on a regular, on-going basis. In addition, such a requirement in this context might be seen as the FCC inadvertently but inappropriately interfering with the sovereignty of the San Carlos Apache Tribe by trying to dictate the relationship between the Tribe and its wholly-owned communications provider.

In summary, then, while we generally support the Engagement Obligation, we believe that an exception can and should be made for those situations where the provider is wholly-owned and operated by the Indian tribe whose reservation is being served by that tribal company.

Thank you for the opportunity to offer our comments on this important subject. We look forward to working with you in the further development of this Obligation and the best practices to implement it.

Sincerely,

A handwritten signature in blue ink, appearing to read "Shirley Ortiz", with a stylized flourish at the end.

Shirley Ortiz
General Manager

cc: Mr. Robert M. Finley, Office of Native Affairs
Mr. Rod Flowers, Office of Native Affairs
Mr. Geoffrey Blackwell, Office of Native Affairs
Ms. Sue McNeil, Wireless Telecommunications Bureau
Mr. Joseph Cavender, Wireline Competition Bureau